

DEPARTMENT OF THE ARMY
Omaha District, Corps of Engineers
6014 U. S. Post Office and Courthouse
Omaha, Nebraska 68102

DR 600-1-3

MROPO-E

Regulation
No. 600-1-3

28 March 1980

Personnel-General
LABOR MANAGEMENT RELATIONS

1. Purpose. This regulation publicizes policies and procedures applicable to labor-management relations within the Omaha District and serviced activities in order to promote effective, equitable, and uniform implementation of the policies, rights, and responsibilities prescribed in CPR 700 and in Title VII, P.L. 95-454 of the Civil Service Reform Act.

2. Applicability. It is applicable to all elements of the Omaha District and to all organizations serviced by the Omaha District.

3. References. FPM/CPR Chapter 711.

4. Definitions.

a. Labor Organization. An organization in which employees participate and pay dues and which has as a purpose the dealing with an agency concerning grievances and conditions of employment. This does not include an organization which:

(1) by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential civil service status, political affiliation, marital status, or handicapping condition;

(2) advocates the overthrow of the constitutional form of government of the United States;

(3) is sponsored by an agency;

(4) participates in the conduct of a strike against the Government or any agency thereof or imposes a duty obligation to conduct, assist, or participate in such a strike; or

(5) consists of management officials or supervisors, except as provided in Section 7135(a)(2), Title VII.

b. Supervisor. An employee having authority, in the interest of the agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct

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them, or to evaluate their performance, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

c. Management Official. An employee having authority to make, or to influence effectively the making of, policy necessary to the agency or activity with respect to personnel, procedures, or programs. (Note: In determining whether a given individual influences effectively policy decisions in this context, consideration should be concentrated on whether the individual's role is that of an expert or professional rendering resource information or recommendations with respect to the policy in question, or whether his/her role extends beyond this to the point of active participation in the ultimate determination as to what the policy in fact will be.)

d. Professional Employee. Any employee engaged in the performance of work;

(1) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities;

(2) requiring the consistent exercise of discretion and judgment in its performance;

(3) which is predominately intellectual and varied in character, as distinguished from routine mental, manual, mechanical, or physical work; and

(4) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(5) An employee who has completed the courses of specialized intellectual instruction and study described in (1) above and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in (1) through (4) above.

e. Unit. A grouping of employees found to be appropriate under Section 7112, Title VII, for the purpose of collective representation by a labor organization in dealing with management under exclusive recognition.

5. Policy. The Omaha District and its serviced activities recognize that the participation of employees in the formulation and implementation of personnel policies and practices affecting the conditions of their employment, achieved through their own freely-chosen organization, contributes to the

employees' well-being and to efficient administration of the Government. Therefore, in the interest of the effective and efficient operation of the Omaha District and serviced activities, and of equitable treatment for their employees, the District Engineer and serviced activity commanders recognize the right of civilian employees to form, join and assist any labor organization, or to refrain from any such activity, and to exercise these rights freely and without fear of penalty or reprisal. The right to join and assist a labor organization extends to participation in its management and to acting as a labor organization representative, except by a supervisor or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee. The District Engineer and serviced activity commanders are responsible for ensuring that all employees in their respective organizations are apprised of these rights and that no interference, restraint, coercion or discrimination is practiced to encourage or discourage membership in any labor organization. Managers must refrain from influencing or interfering with the free choice of employees in representation matters.

6. Rights and Obligations.

a. Labor organizations have a right to be recognized in accordance with the criteria and procedures specified in appropriate regulations. It is the mutual obligation of management and labor organizations holding exclusive recognition to meet at reasonable times and confer in good faith. Such obligation does not, however, compel either party to agree to any specific proposal advanced during consultations or negotiations, or require the making of a concession on any specific matter. A labor organization which has been accorded exclusive recognition is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit, without discrimination and without regard to labor organization membership. Labor organizations holding exclusive recognition shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting the general working conditions of employees in the unit.

b. Management officials retain the right, in accordance with applicable laws and regulations, to determine the mission, budget, organization, number of employees, and internal security practices; to hire, assign, direct, lay off, and retain employees; to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees; to assign work, to make determinations with respect to contracting out, and to determine the personnel by which operations shall be conducted; with respect to filling positions, to make selections for appointments from among properly ranked or certified candidates for promotion; or any other appropriate source; and to take whatever actions may be necessary to carry out the agency mission during

emergencies. The District Engineer and serviced activity commanders have authority to determine that an emergency exists whenever circumstances require immediate attention to preserve the health, welfare, and safety of personnel or protection of property.

7. Dealings with Labor Organizations.

a. Solicitation of Membership. Employees may not be prohibited from soliciting membership or support on behalf of or in opposition to a labor organization on activity premises during the nonwork time of the employees involved (i.e., both those engaged in solicitation and those being solicited) provided there is no interference with the work of the installation.

b. Distribution of Literature.

(1) Employees may not be prohibited from distributing literature on behalf of or in opposition to a labor organization on activity premises in nonwork areas and during the nonwork time of the employees involved (i.e., both those engaged in distribution and those receiving literature) provided there is no interference with the work of the activity.

(2) Literature posted or distributed within the Omaha District or serviced activity must not violate any law, applicable regulations, provisions of a negotiated agreement, or the security of the activity, or contain libelous material. Labor organizations will be considered responsible for the contents of literature distributed by their representatives.

(3) Subject to normal security regulations and reasonable restrictions with regard to the frequency, duration, locations, and number of persons involved in such activities, labor organization representatives who are not employees of the activity may be permitted, upon request, at the discretion of the District Engineer, Project Manager, Project Engineer, Area Engineer, or serviced activity commander, to distribute literature or to solicit membership or support on activity premises in nonwork areas and during the nonwork time of the employees involved. Permission may be withdrawn, however, with respect to any such activities which interfere with the work of the installation, or with respect to any representative who has engaged in conduct prejudicial to good order or discipline on activity premises. If permission is granted to one labor organization for nonemployee representatives to engage in on-station organizing or campaigning activities, the same privilege must be extended to any other requesting labor organization with equivalent status.

c. Use of Facilities. Where exclusive recognition has not been granted, activity facilities may be made available for the use of labor organizations where practicable, upon request, on an impartial and

equitable basis, for the posting of notices, membership meetings outside regular working hours, etc. Where a labor organization holds exclusive recognition, the use of activity facilities by that organization is a proper subject for negotiation.

d. Use of Official Time.

(1) Those activities concerned with organizing efforts and the internal management of labor organizations, including but not limited to the solicitation of memberships, collection of dues or other assessments, circulation of authorization cards or petitions, solicitation of signatures on dues withholding authorization forms, or forms revoking dues withholding authorizations, campaigning for labor organization office, and distribution of literature may be conducted only during the nonwork time of the employees involved. Attendance at scheduled labor organization membership meetings, internal elections, workshops on negotiating skills, attending local or state conventions or similar events wholly or partially within the regular working hours of employees must be done in an annual leave or LWOP status. All leave will be scheduled in accordance with applicable leave regulations and provisions of a negotiated agreement.

(2) An employee who is an official or representative of a labor organization holding exclusive recognition may be excused without charge to leave in conjunction with attendance at a training session sponsored by that organization, provided the subject matter of such training is of mutual concern to the Department of Defense and the employee in his/her capacity as an organization representative and the Department of Defense's interest will be served by the employee's attendance. Administrative excusal for this purpose should cover only such portions of a training session as meet the foregoing criteria and will normally not exceed eight (8) hours for any individual. Subject to the same criteria and limitations, an employee who is a representative of a labor organization with responsibilities under the Federal Wage System (FWS) may also be excused for the purpose of attending a training session sponsored by the labor organization concerning FWS policies and operations.

(3) Employees who represent a labor organization shall be on official time when participating in the negotiation of a labor-management agreement only to the extent agreed upon by the parties within the limitations set forth in Section 7131, Title VII.

8. Furnishing of Information. Labor organizations desiring lists of names, positions, titles, grades and/or duty stations of employees of the Omaha District or its serviced activities should submit their written request to the Personnel Officer, U. S. Army Engineer District, Omaha, 6014 U. S. Post Office and Courthouse, Omaha, Nebraska 68102. Lists of employees' home addresses or telephone numbers will not be furnished to labor organizations.

9. Negotiation of Agreements.

a. The District Engineer, U. S. Army Engineer District, Omaha has been delegated the authority to approve agreements negotiated for all units within the U. S. Army Engineer District, Omaha. The Division Engineer will approve all agreements for units of the Missouri River Division Office. Approval authority for other activities serviced by the Personnel Office, U. S. Army Engineer District, Omaha will be in accordance with the regulations governing that organization.

b. The Personnel Officer, U. S. Army Engineer District, Omaha is the point of contact for labor-management relations and will coordinate the negotiation of all agreements for the District and serviced activities.

10. Grievances and Arbitration.

a. Section 7121, Title VII, requires that any collective bargaining agreement shall provide procedures for the settlement of grievances. The procedures may cover matters for which statutory appeal procedures exist but must not otherwise conflict with statute or Title VII. Except for grievances stemming from discrimination complaints, actions based on unacceptable performance, and adverse actions, the procedures shall be the exclusive ones available to the parties and the employees in the unit for resolving grievances which fall within the procedures coverage. An employee or group of employees in the unit, in filing a grievance under the negotiated procedures, may be represented only by the exclusive union or a person selected in accordance with the agreement. An employee or group of employees in the unit wishing to present such a grievance without representation may do so; however, any adjustment of such grievance must not be inconsistent with the terms of the agreement, and the exclusive representative must be given the opportunity to be present throughout the grievance proceedings.

b. A negotiated procedure may provide for the arbitration of grievances. Arbitration may be invoked only by the agency or the exclusive representative.

11. Payroll Withholding of Labor Organization Dues.

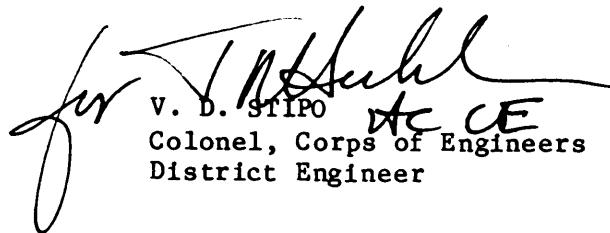
a. When a labor organization holds exclusive recognition for a unit of employees in the Omaha District or a serviced activity, arrangements may be negotiated by the parties whereby members of the organization employed in the unit may authorize the payment of their dues to the labor organization through payroll withholding. Payroll withholding will be made at no cost to the exclusive representative or the employee.

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b. Revocation of payroll withholding may be made on an annual basis only.

c. Payroll withholding terminates when the agreement ceases to be applicable to the employee. The agreement ceases to be applicable when, for example, the employee is promoted to a supervisory position or is reassigned out of the bargaining unit.

12. Posting. This regulation will be continuously posted on all official bulletin boards.


V. D. STRIPO
Colonel, Corps of Engineers
District Engineer

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